WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION

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Form #6

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY Insurance Commission NUMBER: 114

AMENDMENT TO AN EXISTING RULE: YES X NO ___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 42

TITLE OF RULE BEING AMENDED: Continuing Education For Individual Insurance Producers

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: ___

TITLE OF RULE BEING PROPOSED: ___

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 287

SECTION 64-7-1(h), PASSED ON March 7, 2003

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE FOLLOWING DATE: April 3, 2003

Authorized Signature

PROMULGATION HISTORY

WEST VIRGINIA INSURANCE COMMISSION

TITLE

CONTINUING EDUCATION FOR INDIVIDUAL INSURANCE PRODUCERS

TITLE 114, SERIES 42

5/29/02	Notice of Comment Period Filed
7/01/02	Last Date Comments Were Received
7/26/02	Agency Approved Legislative Rule Filed
9/15/02	Date Reviewed by Legislative Rule-Making Review Committee
4/03/03	Filing Date
4/03/03	Effective Date

114CSR42

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 42
CONTINUING EDUCATION FOR INDIVIDUAL INSURANCE PRODUCERS

Section

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WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 42
CONTINUING EDUCATION FOR INDIVIDUAL INSURANCE PRODUCERS

§114-42-1. General.

1.1. Scope. -- This legislative rule establishes standards for continuing insurance education requirements and the sanctions to be imposed for failure to comply with such requirements.

1.2. Authority. -- W. Va. Code §33-2-10.

1.3. Filing Date. -- April 3, 2003.

1.4. Effective Date. -- April 3, 2003.

§114-42-2. Definitions.

2.1. "Individual insurance producer " or "active individual insurance producer " means an individual licensed by the commissioner to solicit, negotiate, effect or countersign insurance contracts on its behalf. For purposes of this rule, reference to the terms "individual insurance producer" and "active individual insurance producer" include the term "solicitor" unless specifically excluded.

2.2. "Approved course" means a course or program of instruction approved by the commissioner and the Board of Insurance Agent Education for continuing insurance education credit.

2.3. "Board" means the Board of Insurance Agent Education continued pursuant to W. Va. Code §33-12-7.

2.4. "Cancelled license" means a license to engage in the sale of insurance which has been:

a. voluntarily voided by request of the individual insurance producer and approved by the commissioner; or

b. terminated for failure to satisfy the mandatory continuing education requirements as of the last day of the reporting period following his or her suspension.

2.5. "Certificate of course completion" means a document acceptable to the commissioner which signifies satisfactory completion of an approved course and reflects hours

of credit earned.

2.6. "Commissioner" means the Commissioner of Insurance of the state of West Virginia.

2.7. "Provider" means a person, corporation, professional association or its local affiliates, an insurance company or other entity which is approved by the commissioner and provides approved continuing insurance education to individual insurance producers.

2.8. "Reporting period" means the applicable triennium during which an individual insurance producer must meet his or her continuing insurance education requirements in order to maintain his or her license as required by W. Va. Code §33-12-8.

2.9. "Solicitor" means an individual appointed and authorized by an individual insurance producer to solicit and receive applications for insurance as a representative of the individual insurance producer.

2.10. "Suspended insurance producer " is an individual whose license to engage in the sale of insurance has been temporarily withdrawn until such time as the individual insurance producer has successfully completed his or her continuing insurance education requirements.

2.11. "Triennium" means the three-year reporting period beginning the first day of July, 2000, and ending on the thirtieth day of June, 2003, and every three-year period thereafter.

§114-42-3. Applicability.

3.1. This rule applies to solicitors and resident individual insurance producers licensed by the commissioner to engage in the sale of one or more of the following types of insurance:

a. Life insurance, annuity contracts, variable annuity contracts and variable life insurance;

b. Sickness, accident and health insurance;

c. All lines of property and casualty insurance;

d. Preneed burial insurance contracts;

e. All other lines of insurance for which an examination is required by the commissioner;

f. Individual insurance producers appointed on behalf of a licensed health maintenance organization;and

g. Individual insurance producers engaged in telemarketing insurance products.

§114-42-4. Exemptions.

4.1. Continuing education requirements shall not apply to:

a. Persons holding resident licenses for any kind or kinds of insurance for which an examination is not required by the commissioner;

b. Persons selling only credit life or credit accident and health insurance;

c. Any such limited or restricted license as the commissioner may exempt;

d. Individual insurance producers whose licenses have expired pursuant to W. Va. Code §33-12-17;

e. Individual insurance producers who have voluntarily cancelled their licenses;

f. Non-resident individual insurance producers ; and

g. Adjusters.

4.2. Individual insurance producers newly licensed on or after January 1 of the third year of a triennium are exempt from continuing insurance education requirements only for the triennium in which the license was issued.

§114-42-5. Continuing Insurance Education Course Requirements.

5.1. A continuing insurance education course shall not qualify for use as continuing insurance education credit unless it is filed with and approved by the commissioner and the Board.

5.2. A provider shall not implement any material change in a continuing insurance education course previously approved by the commissioner until the change has been filed with and approved by the commissioner and the Board.

5.3. The commissioner will not give an individual insurance producer credit for any continuing insurance education course which is taken prior to the issuance of written approval by the commissioner and the Board.

5.4. If a continuing insurance education course is taken more than once in a reporting period, the commissioner will give the individual insurance producer credit only for the first time that course was taken and completed during the applicable reporting period.

5.5. The commissioner may withdraw approval of a continuing insurance education course for any of the following reasons:

a. The continuing insurance education course teaching methods or course content

have been materially changed without being filed with or approved by the commissioner and the Board;

b. The continuing insurance education course provider has certified to the commissioner that an individual insurance producer has satisfactorily completed the course when, in fact, the individual insurance producer has not done so;

c. The continuing insurance education course provider fails to certify to the commissioner that the individual insurance producer has satisfactorily completed the course when, in fact, the individual insurance producer has done so; or

d. There is other good reason to withdraw approval of a continuing insurance education course.

5.6. In those instances where the commissioner has withdrawn approval for a continuing insurance education course, individual insurance producers who successfully completed the course prior to the withdrawal of approval shall receive credit toward their continuing education requirements.

5.7. Scripted presentations for individual insurance producers involved in telemarketing insurance products pursuant to W. Va. Code §33-12-8 shall be filed with the commissioner no later than the first day of each reporting period or at least sixty (60) days prior to doing business in the state, whichever comes first.

§114-42-6. Insurance Producer Continuing Insurance Education Requirements.

6.1. The commissioner may, upon application for good cause shown, grant an individual insurance producer an extension of time in which to meet the continuing insurance education requirements. Extensions may be granted for the following reasons:

a. The individual insurance producer has been engaged in active military duty outside the state for at least eighteen (18) months during the triennium;

b. The individual insurance producer was or has become physically or mentally temporarily or permanently disabled by injury, illness or disease and was unable to perform adequately the duties required of him or her as a licensed individual insurance producer for a period of at least eighteen (18) months during the triennium; or

c. Any such other reason as the commissioner may determine on a case-by-case basis as constituting good cause.

6.2. An individual insurance producer should submit a request for an extension of time in which to meet the continuing insurance education requirements to the commissioner in writing at least thirty (30) days prior to the last day of the reporting period and shall include in the request an explanation together with reasonable verification of the hardship rendering an extension necessary.

6.3. The commissioner shall refuse to renew the appointments or issue new appointments for those lines of insurance specified in section 3 of this rule to any individual insurance producer who does not satisfy the minimum continuing insurance education requirements.

6.4. An individual insurance producer may not carry forward excess credit hours accumulated during one reporting period to satisfy the continuing insurance education requirements of the following reporting period.

6.5. Any individual insurance producer who has not complied with the continuing insurance education requirements by the end of the reporting period may thereafter obtain credits to be carried back to meet the requirements of the preceding reporting period.

6.6. An individual insurance producer may use any continuing insurance education credit obtained to satisfy the mandatory continuing insurance education requirements of one reporting period only.

6.7. Individual insurance producers who have a cancelled license or an expired license pursuant to W. Va. Code §33-12-17 shall successfully complete pre-licensing education and examination before qualifying for a new license, and shall thereafter successfully complete the continuing insurance education credits required pursuant to W. Va. Code §§33-12-1 et seq. and the guidelines established by the Board.

a. No individual insurance producer shall allow his or her license to expire as a means to circumvent the mandatory continuing education requirements.

6.8. The commissioner shall recognize the continuing insurance education requirements obtained during the reporting period through an approved provider of another state only in those instances where all the following conditions are met:

a. The individual insurance producer is a former resident individual insurance producer for whom a clearance letter was previously issued by the commissioner;

b. The individual insurance producer is currently licensed in good standing in another state and has been so licensed since leaving West Virginia; and

c. The individual insurance producer is in the process of establishing residency in West Virginia and has requested to have his or her resident individual insurance producer's license reinstated.

§114-42-7. Proof of Completion.

7.1. Upon completion of a continuing insurance education course, the provider shall certify to the commissioner the names of all individual insurance producers who satisfactorily completed the continuing insurance education course. The certification shall be in the form

prescribed by the commissioner.

a. The continuing education attendance roster shall be mailed by the provider to the commissioner within thirty (30) days after the continuing insurance education course is completed.

b. The provider of the continuing insurance education course shall furnish a certificate of completion to the individual insurance producer attending the course and the individual insurance producer shall retain a copy of the certificate for not less than four (4) years from the date the course is completed.

c. The provider shall retain a copy of the attendance roster for not less than four (4) years from the date the course is completed.

7.2. Providers of continuing insurance education courses and individual insurance producers shall make available to the commissioner or his or her designee copies of certificates upon request of the commissioner.

§114-42-8. Disciplinary Process.

8.1. No later than sixty (60) days prior to the end of the reporting period, the commissioner shall provide written notification to individual insurance producers subject to continuing insurance education requirements advising them as to the status of their continuing insurance education credits.

a. The commissioner shall provide the notification to each individual insurance producer either by personal delivery or by regular mail addressed to the individual insurance producer at the last address appearing for the individual insurance producer in the records of the commissioner.

b. Individual insurance producers who sell only preneed burial insurance contracts shall file with the commissioner an affidavit, on a form to be provided by the commissioner, verifying that the individual insurance producer is not engaged in the sale of any other type of insurance product.

c. Individual insurance producers engaged solely in telemarketing insurance products by a scripted presentation which has been filed with and approved by the commissioner shall file an affidavit, on a form to be provided by the commissioner, verifying that the individual insurance producer is not engaged in the sale of any other type of insurance product.

8.2. Any individual insurance producer who does not anticipate pursuing the required continuing insurance education requirements may elect to cancel his or her license prior to the end of the reporting period by submitting a written request to the commissioner. Cancellation of a license revokes any privilege the individual insurance producer may have had to reinstate his or her license without completion of a pre-licensing insurance education course and examination.

a. Each request for cancellation of a license shall include the individual insurance producer's name, address, individual insurance producer license number, telephone number and reason for cancellation.

b. Cancellation of a license prohibits an individual from further transacting insurance in West Virginia without successful completion of pre-licensing education and examination.

8.3. Any individual insurance producer who has not met the continuing insurance education requirements for any reporting period may agree to a voluntary suspension of his or her license until such time as the continuing insurance education requirements have been met.

a. Each request for a voluntary suspension of a license shall include the individual insurance producer's name, address, individual insurance producer license number and telephone number.

b. An individual insurance producer may not transact insurance in West Virginia during the suspension period.

c. Any individual insurance producer who does not satisfy the mandatory continuing education requirements as of the last day of the reporting period following his or her voluntary suspension shall have his or her license automatically cancelled pursuant to the provisions of W. Va. Code §33-12-8(h).

8.4. Any individual insurance producer failing to meet continuing insurance education requirements and who has not been granted an extension of time within which to comply, or who has submitted to the commissioner a false or fraudulent certificate of compliance shall have his or her license automatically suspended until such time as the individual insurance producer has demonstrated to the satisfaction of the commissioner that he or she has complied with all the requirements of this rule and all other applicable laws.

a. "Suspension of all licenses issued for any kind or kinds of insurance" shall be interpreted to mean those licenses for which continuing insurance education is required pursuant to this rule and W. Va. Code §§33-12-1 et seq.

b. The burden of proving successful completion of continuing insurance education courses is at all times upon the individual subject to the continuing insurance education requirements.

c. Any individual whose license has been suspended for failure to meet the continuing education requirements of W. Va. Code §33-12-8(h) and this rule must satisfactorily complete the continuing insurance education requirements of each reporting period in which the suspension was in effect before the suspension can be lifted.

d. Any individual insurance producer who does not satisfy the mandatory continuing education requirements as of the last day of the reporting period following his or her

suspension shall have his or her license automatically cancelled pursuant to the provisions of W. Va. Code §33-12-8(h).

8.5. Upon suspension of an individual insurance producer's license for failure to comply with the mandatory continuing insurance education requirements for the reporting period, the commissioner shall:

a. Give notice of the suspension to the insurer(s) or employing agent with whom the individual insurance producer has a contractual relationship; and

b. Cancel all appointments of the individual insurance producer subject to disciplinary action.

8.6. An insurer or employing individual insurance producer shall not renew or issue new appointments subject to continuing insurance education requirements to an individual insurance producer whose license has been suspended for failure to comply with mandatory continuing insurance education requirements until such time as the individual insurance producer's license has been reinstated and an application and appropriate fee have been submitted to and approved by the commissioner.

8.7. Neither cancellation of a license nor any disciplinary action levied as a result of non-compliance with continuing insurance education requirements shall prohibit an individual from receiving commissions which were vested and earned while that individual maintained an approved license.

§114-42-9. Severability.

9.1. If any provision of this rule or the application of this rule to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provisions to other persons or circumstances shall not be affected by the holding.